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Resolution adopted by the Human Rights Council on 23 June 2017

35/34. Protection of human rights and fundamental freedoms while countering terrorism

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming its decision 2/112 of 27 November 2006 and resolutions 6/28 of 14 December 2007, 7/7 of 27 March 2008, 10/15 of 26 March 2009, 13/26 of 26 March 2010, 19/19 of 23 March 2012, 25/7 of 27 March 2014, 29/9 of 2 July 2015, 31/3 of 23 March 2016 and 33/21 of 30 September 2016, and Commission on Human Rights resolutions 2003/68 of 25 April 2003, 2004/87 of 21 April 2004 and 2005/80 of 21 April 2005, recalling General Assembly resolutions 57/219 of 18 December 2002, 58/187 of 22 December 2003, 59/191 of 20 December 2004, 60/158 of 16 December 2005, 61/171 of 19 December 2006, 62/159 of 18 December 2007, 63/185 of 18 December 2008, 64/168 of 18 December 2009, 65/221 of 21 December 2010, 66/171 of 19 December 2011, 68/178 of 18 December 2013, 70/148 of 17 December 2015 and 70/291 of 1 July 2016, and welcoming the efforts of all relevant stakeholders to implement them,

1. *Calls upon* States to ensure that any measure taken to counter terrorism and violent extremism conducive to terrorism complies with international law, in particular international human rights law, international refugee law and international humanitarian law;

2. *Expresses serious concern* at the violations of human rights and fundamental freedoms and of international refugee law and international humanitarian law in the context of countering terrorism and violent extremism conducive to terrorism;

3. *Affirms its unequivocal condemnation* of all acts, methods and practices of terrorism and violent extremism conducive to terrorism, in all its forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, and of the financial, material or political support of terrorism, as unjustifiable in accordance with applicable international law, in the light of, in particular, their detrimental effects on the enjoyment of human rights and on democratic societies as well as the threat they pose to territorial integrity, the security of States and the stability of Governments;

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4. *Renews* its commitment to strengthen international cooperation to prevent, counter and combat terrorism, and in that regard calls upon States and other relevant parties, as appropriate, to continue to implement the United Nations Global Counter-Terrorism Strategy and its four pillars, which reaffirm, inter alia, respect for human rights for all and the rule of law as being the fundamental basis of the fight against terrorism;

5. *Stresses* the responsibility of States to protect persons in their territory against such acts, in full compliance with their obligations under international law, and in particular international human rights law, international refugee law and international humanitarian law;

6. *Deeply deplores* the suffering caused by terrorism to the victims and their families and, while stressing the need to promote and protect the rights of victims of terrorism, in particular women and children, reaffirms its profound solidarity with them, and stresses the importance of providing them with proper support and assistance while respecting, inter alia, considerations regarding remembrance, dignity, respect, accountability, truth and justice, in accordance with international law;

7. *Emphasizes* the need to ensure that victims of terrorism are treated with dignity and respect, stresses the need to promote international solidarity in support of the victims of terrorism, and recognizes the role that victims of terrorism can play, including in countering the appeal of terrorism;

8. *Calls upon* States to ensure that any person who alleges that his or her human rights or fundamental freedoms have been violated by measures taken or means employed to counter terrorism or violent extremism conducive to terrorism has access to justice, due process and an effective remedy, and that victims of human rights violations receive adequate, effective and prompt reparations, which should include, as appropriate, restitution, compensation, rehabilitation and guarantees of non-recurrence;

9. *Stresses* the importance of ensuring access to justice and accountability, including by developing and maintaining effective, fair, humane, transparent and accountable criminal justice systems, in accordance with applicable international law, as a fundamental basis of any strategy to counter terrorism and violent extremism conducive to terrorism;

10. *Strongly encourages* relevant United Nations agencies to take into account in their technical assistance to counter terrorism, whenever appropriate, the elements necessary for building national capacity in order to strengthen criminal justice systems and the rule of law;

11. *Reaffirms* that terrorism and violent extremism cannot and should not be associated with any religion, nationality, civilization or ethnic group;

12. *Urges* States to ensure that measures taken to counter terrorism and violent extremism conducive to terrorism are not discriminatory, and not to resort to profiling based on stereotypes founded on ethnic, racial or religious grounds or any other ground of discrimination prohibited by international law;

13. *Recognizes* the important role of education, respect for cultural diversity, preventing and combating discrimination, employment and inclusion in helping to prevent terrorism and violent extremism conducive to terrorism, and welcomes the engagement of relevant United Nations agencies with Member States to implement strategies to prevent violent extremism conducive to terrorism through education,

14. *Also recognizes* the importance of preventing violent extremism conducive to terrorism, and invites Member States and regional and subregional organizations to consider developing national and regional plans of action in this regard;

15. *Acknowledges* that the active participation of civil society can reinforce ongoing governmental efforts to protect human rights and fundamental freedoms while countering terrorism, and calls upon States to ensure that measures to counter terrorism and violent extremism conducive to terrorism and to preserve national security do not hinder its work and safety and are in compliance with their obligations under international law;

16. *Urges* States to ensure that gender equality and non-discrimination are taken into account when shaping, reviewing and implementing all counter-terrorism measures;

17. *Calls upon* States to highlight the important role of women in countering terrorism and violent extremism conducive to terrorism, and to consider, when appropriate, the impact of counter-terrorism strategies on women's and children's human rights and women's and children's organizations, and to seek consultations with these organizations when developing strategies to counter terrorism and preventing violent extremism conducive to terrorism;

18. *Recognizes* the important role of religious leaders and institutions, local communities and community leaders in preventing and countering terrorism and violent extremism conducive to terrorism;

19. *Reiterates* that, given their potential status as victims of terrorism and of other violations of international law, all children alleged as, accused of or recognized as having infringed the law, particularly those who are deprived of their liberty, as well as child victims and witnesses of crimes, should be treated in a manner consistent with his or her rights, dignity and needs, in accordance with applicable international law, in particular the obligations set out under the Convention on the Rights of the Child, and, bearing in mind relevant international standards on human rights in the administration of justice in this regard, urges Member States to take relevant measures to effectively reintegrate children formerly associated with armed groups, including terrorist groups,

20. *Urges* all States to respect and protect the right to privacy, as set out in article 12 of the Universal Declaration of Human Rights and article 17 of the International Covenant on Civil and Political Rights, including in the context of digital communication, and calls upon States, while countering terrorism and violent extremism conducive to terrorism, to review their procedures, practices and legislation regarding the surveillance of communications, their interception and the collection of personal data, including mass surveillance, interception and collection, with a view to upholding the right to privacy by ensuring the full and effective implementation of all their obligations under international human rights law, and urges them to take measures to ensure that any interference with the right to privacy is regulated by law, which must be publicly accessible, clear, precise, comprehensive and non-discriminatory, and that such interference is not arbitrary or unlawful, bearing in mind what is reasonable to the pursuance of legitimate aims;

21. *Emphasizes* the key importance of the full respect for the right to freedom of opinion and expression in efforts to fight terrorism and violent extremism conducive to terrorism, and also in countering the propaganda of terrorist and extremist groups, bearing in mind the provisions set out in the International Covenant on Civil and Political Rights;

22. *Urges* States to ensure that any measure taken or means employed to counter terrorism and violent extremism conducive to terrorism, including the use of remotely piloted aircraft, complies with their obligations under international law, including international human rights law and international humanitarian law;

23. *Also urges* States, while undertaking counter-terrorism activities, to respect their international obligations regarding humanitarian actors and organizations that play a key role in areas where terrorist groups are active;

24. *Further urges* States to undertake prompt, independent and impartial fact-finding inquiries whenever there are plausible indications of breaches of their obligations under international law as a result of any measures taken or means employed to counter terrorism, and to ensure accountability for those responsible for violations that amount to crimes under national or international law;

25. *Notes with concern* measures that undermine human rights and the rule of law, such as the detention of persons suspected of acts of terrorism in the absence of a legal basis for detention and due process guarantees, the use of torture, the unlawful deprivation of the right to life and other fundamental freedoms, and urges States to provide for review of detention and to respect the rights to equality and non-discrimination in the administration of justice, to a fair and public hearing by a competent, independent and impartial tribunal as well as to the presumption of innocence, to a fair trial and other fundamental judicial guarantees, as provided for by international law, including international human rights law, and, as applicable, international humanitarian law and international refugee law;

26. *Urges* States to take measures to ensure that counter-terrorism laws and implementing measures are consistent with and are applied in a manner that fully respects international human rights law, in particular the rights enshrined in articles 10 and 11 of the Universal Declaration of Human Rights and further codified in articles 14 and 15 of the International Covenant on Civil and Political Rights, with a view to ensuring respect for the principle of certainty of the law by clear and precise provisions;

27. *Notes with concern* the unlawful transfer or return of suspects of terrorist activities to countries where there are substantial grounds for believing that they would be in danger of being subject to torture;

28. *Calls upon* Member States and the United Nations entities involved in supporting counter-terrorism efforts to continue to facilitate the promotion and protection of human rights and fundamental freedoms, as well as due process and the rule of law, while countering terrorism;

29. *Encourages* Member States, United Nations entities, regional and subregional organizations and relevant actors to consider instituting mechanisms to involve youth in the promotion of a culture of peace, justice and human development, and of ethnic, national and religious tolerance by establishing and encouraging, as appropriate, education and public awareness programmes involving all sectors of society;

30. *Takes note with appreciation* of the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism;[1]

31. *Takes note* of the report of the United Nations High Commissioner for Human Rights on the negative effects of terrorism on the enjoyment of all human rights and fundamental freedoms;[2]

32. *Requests* the Special Rapporteur, in accordance with his mandate, to continue to gather, request, receive and exchange information on alleged violations of human rights and fundamental freedoms while countering terrorism, and to report regularly to the Human Rights Council;

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[1] A/HRC/34/61.

[2] A/HRC/34/30.

33. *Requests* all States to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated, including by reacting promptly to urgent appeals and providing the information requested, and to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries;

34. *Welcomes* the creation of the Office of Counter-Terrorism,[3] and encourages the Office and all relevant United Nations bodies, agencies, funds and programmes, and international, regional and subregional organizations involved in supporting counter-terrorism efforts, in particular those that are participating in the Counter-Terrorism Implementation Task Force and that provide technical assistance relating to the prevention and suppression of terrorism to consenting States, to include, as appropriate and where consistent with their mandates, respect for international law, in particular human rights law and, as applicable, international humanitarian law and international refugee law, as an important element of the technical assistance they offer to States in the area of counter-terrorism;

35. *Recalls* the need to continue to ensure that fair and clear procedures under the United Nations terrorism-related sanctions regime are strengthened in order to enhance efficiency and transparency, in particular with regard to placing individuals and entities on, and removing them from, terrorism-related sanctions lists, while emphasizing the importance of sanctions in countering terrorism under international law, and welcomes the ongoing efforts of the Security Council in support of those objectives;

36. *Requests* the High Commissioner and the Special Rapporteur to present their reports, bearing in mind the content of the present resolution, to the Human Rights Council under agenda item 3, in conformity with its annual programme of work.

38th meeting
23 June 2017

[Adopted without a vote.]

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[3] See General Assembly resolution 71/291.